IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE P.N.RAVINDRAN

FRIDAY, THE 14TH DECEMBER 2007 / 3RD AGRAHAYANA 1929

ST.Rev..No. 328 of 2007()

AGAINST THE ORDER DATED 08/02/2006 IN KERALA SALES TAX APPELLATE TRIBUNAL, ADDL. BENCH-I, ERNAKULAM IN TA.178/2005

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REVISION PETITIONER/APPELLANT/REVENUE

STATE OF KERALA, REP. BY JOINT COMMISSIONER (LAW)
COMMERCIAL TAXES, ERNAKULAM

BY SR. GOVERNMENT PLEADER SHRI. MUHAMMED RAFIQ

RESPONDENTS: RESPONDENT/APPELLANT/ASSESSEE

M/S CROMPTON GREAVES LTD.,
ERNAKULAM.

THIS SALES TAX REVISION HAVING COME UP FOR ADMISSION ON 14/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

H.L.Dattu,C.J. & P.N.Ravindran,J.

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C.M.Appl.No.1119 of 2007

in

S.T.Revn. No.328 of 2007

&

S.T.Revn.No.328 of 2007

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Dated this the 14th day of December, 2007.

ORDER

H.L.Dattu,C.J.

Aggrieved by the orders passed by the Sales Tax Appellate Tribunal in T.A.No.178 of 2005 dated 8.2.2006, State has come before us in this tax revision case.

2. In filing the revision petition, there is a delay of nearly 250 days. To condone the delay in filing the revision petition, an application under Section 5 of the Limitation Act is filed. Along with the application, an affidavit of the Assistant Commissioner (Law) attached to the office of the Joint Commissioner (Law), Commercial Taxes, Ernakulam is filed.

3. In paragraph 3 of the affidavit, it is stated that the orders passed by the Sales Tax Appellate Tribunal dated 8.2.2006 was received in the office of the Joint Commissioner (Law), Commercial Taxes only on 29.12.2006. It is further stated that the matter was entrusted to the Joint Commissioner (Law), Ernakulam by the office of the Commissioner of Commercial Taxes to verify whether any revision petition is required to be filed only on 4.4.2007. It appears, thereafter the papers were sent to the office of the Advocate General, Ernakulam on 4.4.2007. The affidavit also states that the Special Government Pleader (Taxes) gave a legal opinion only on 3.12.2007.

4. The explanation offered by the State Government in the affidavit is that the papers were moving from one office to another office and because of that, there was a delay of 250 days in filing the revision petition.

5. No doubt, the Supreme Court has stated, that, while considering the application for condonation of delay in filing the appeals or revisions by the State Government, it should be liberally construed and that does not mean the delay in filing requires to be condoned in every case when there is no explanation much less satisfactory explanation. Movement of papers cannot be a “Mantra” in every other case. If this sort of explanation is accepted, then we might have to condone the delay in every other case that is filed by the State Government. Section 41 of the Act, prescribes the time limit within which time a revision petition requires to be filed by an aggrieved person, aggrieved by an order passed by the Appellate Tribunal. The period prescribed is 90 days from the date the copy of the order is served on the person, who intends to file the revision petition. The Legislature has provided a pretty long period for filing a revision petition. Proviso appended to the Section gives discretion to the Court to admit a petition preferred after the period of 90 days, if it is satisfied that the petitioner had sufficient cause for not prefering the petition within the said period. That only means, if an aggrieved person files a petition after the prescribed period, he is expected to explain satisfactorily all semblance of delay. We are not suggesting that each and every day's delay requires to be explained, but when there is a delay of nearly 250 days, over and above 90 days prescribed under the Act, such delay must be satisfactorily explained. The explanation can't be, in our view, that the papers

were moving from one table to the other table leisurely and, therefore, delay is caused in prefering the revision petition. In the instant case, having gone through the affidavit filed along with the explanation, we are of the view that the delay in filing the revision petition is not explained satisfactorily. Therefore, the explanation offered cannot be accepted. Accordingly, the application for condonation of delay in filing the revision petition requires to be rejected and it is rejected.

7. Consequently, the revision petition also stands rejected.

Ordered accordingly.

H.LDattu,
Chief Justice.

P.N.Ravindran,
Judge.

ess/dk